

RONALD MONROE,	:	
	:	
PETITIONER,	:	
	:	
V.	:	COMMISSIONER OF EDUCATION
	:	
BOARD OF EDUCATION OF	:	DECISION
THE CITY OF ATLANTIC CITY,	:	
ATLANTIC COUNTY,	:	
	:	
RESPONDENT.	:	
	:	
_____	:	

SYNOPSIS

Petitioner, former head custodian, alleged the Board reduced his compensation in violation of his tenure rights. Petitioner sought restoration to his tenured head custodian position as he rescinded his resignation from such position prior to the Board's taking formal action to accept it.

ALJ determined petitioner had acquired a tenured status as head custodian pursuant to *N.J.S.A.* 18A:17-3. Thus, the Board could not terminate petitioner from his tenured position nor reduce petitioner's compensation. ALJ concluded that the Board must provide petitioner with the difference in salary received from the period it was reduced by the Board upon his transfer to a custodian position from head custodian and his final resignation from the Board's employ.

Commissioner concurred with the initial decision and directed the Board to remit to petitioner backpay differential for the period from the rescission of his resignation in January 1996 until his resignation in September 1997.

SEPTEMBER 24, 1998

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The record of this matter and the initial decision of the Office of Administrative Law (OAL) have been reviewed. No exceptions were filed by the parties.

Upon his independent and careful review of the record, the Commissioner concurs with the findings and conclusion of the Administrative Law Judge that the within petitioner should have been restored to his tenured head custodian position, as a matter of law, as he rescinded his resignation from such position prior to the Board's taking formal action to accept it. As such, the Board must compensate petitioner in an amount equal to the difference between what he would have earned in the head custodian position and what he actually earned in the regular custodian position from the date of the rescission of his resignation until his ultimate resignation from the Board's employ in September 1997.

Accordingly, the initial decision of the OAL is affirmed for the reasons articulated therein and the Board is hereby directed to remit to petitioner backpay differential for the period from the rescission of his resignation in January 1996 until his resignation in September 1997.*

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

SEPTEMBER 24, 1998

* This decision, as the Commissioner's final determination in the instant matter, may be appealed to the State Board of Education pursuant to *N.J.S.A. 18A:6-27 et seq.* and *N.J.A.C. 6:2-1.1 et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.